



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 17.05.1999
COM(1999) 157 final

99/0087 (COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**amending Directive 96/49/EC
on the approximation of the laws of the Member States
with regard to the transport of dangerous goods by rail**

(presented by the Commission)

EXPLANATORY MEMORANDUM

A. General points

Current situation

Council Directive 96/49/EC on the approximation of the laws of the Member States with regard to the transport of dangerous goods by rail entered into force on 1 January 1997.

This Directive lays down a number of transitional provisions valid until 1 January 1999 to permit completion of standardisation work being carried out by the European Committee for Standardisation (CEN).

Because of delays in this work, the time-limit fixed in Directive 96/49/EC is not consistent with the current situation, involving short-term problems of application.

These short-term problems concern Article 6(4) on receptacles for transporting Class 2 gases and on tanks. The time-limit for this transitional provision is 1 January 1999.

Given that the standardisation work is held up, only a very small number of standards will be incorporated into the 1999 version of the RID.

This lack of standards, and the fact that the date on which the transitional provisions cease to apply is to be applied strictly, means that those Member States whose national legislation does not comply with the RID will be obliged to draw up new national regulations and apply them as from 1 January 1999.

Afterwards, as soon as the standards have been incorporated into the RID (1 January 2001 for most equipment), those same Member States will have to amend their national legislation once again.

B. Justification of Community action

I. Subsidiarity

- (a) What are the objectives of the planned action in relation to the obligations of the Community?

The objective of this amendment of Directive 96/49/EC is to avoid having to amend national legislations for a very brief period, i.e. to avoid expenditure for the Member States and industry without any benefit accruing for the Community.

- (b) Does the envisaged action relate to an exclusive competence of the Community or a competence shared with the Member States?

Shared competence.
Article 71(1)(c)

- (c) What is the Community dimension of the problem (for instance, how many Member States are involved and which is the solution so far)?

In accordance with Directive 96/49/EC all the Member States must amend certain national provisions from 1 January 1999 for a very brief period.

- (d) Which solution is most efficient in comparison between Community measures and measures of the Member State?

Amending Community legislation is more efficient than amending national legislations for a very brief period.

- (e) What is the specific value of the envisaged Community action and what would be the cost of inaction?

Inaction would oblige the Member States to amend their national legislation for a very brief period, entailing extra expenditure for the Member States and industry. The specific value of Community action is that it obviates unnecessary expenditure.

- (f) What forms of action are available to the Community (recommendations, financial support, regulation, mutual recognition, etc.)?

Amending a directive is the sole means to deal with the problems connected with the application of certain provisions of a directive in force.

- (g) Is it necessary to have a uniform regulation or is a directive setting out the general objectives sufficient, leaving implementation to the Member States?

Amending a directive is sufficient to deal with the problems connected with the application of certain provisions of a directive.

II. Harmonisation of conditions

Amending Directive 96/49/EC does not entail amending the level of harmonisation established in the Community for the transport of dangerous goods by rail.

Coherence with other Community policies

Amending Directive 96/49/EC has no impact on other Community policies.

C. Objective of the proposal

This proposal for amending Directive 96/49/EC is intended to settle the problems that will arise from 1 January 1999 concerning the application of certain transitional provisions.

These short-term problems have been outlined above under A. General points, in the section on the current situation. They concern Article 6(4) of Directive 96/49/EC.

The second objective of this proposal is to amend certain provisions of Article 6 on derogations in order to specify certain derogations and their acceptance procedure in more detail.

D. Contents of the proposal

Article 1 sets out the proposed amendments to Article 6 of Directive 96/49/EC.

Paragraph 1, point (a) amends paragraph 4 by replacing the deadlines as specified by 30 June 2001 and 1 July 2001 respectively, whilst point (b) amends paragraph 4 by allowing the Committee under Article 9 to postpone those deadlines in respect of certain equipment.

Paragraphs 2, 4 and 5 amend paragraphs 9, 11 and 14 as regards the procedure for the acceptance of derogations, which must be in conformity with Article 9.

Paragraph 3 amends paragraph 10 by specifying the conditions on which a transport operation can be considered an *ad hoc* transport operation.

Articles 2, 3 and 4 contain provisions concerning transposition by the Member States and the entry into force of this act amending Directive 96/49/EC.

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**amending Directive 96/49/EC
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(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular point (c) of Article 71(1) thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the Economic and Social Committee²,

Having regard to the opinion of the Committee of the Regions³,

Acting in accordance with the procedure referred to in Article 251 of the Treaty⁴,

1. Whereas Directive 96/49/EC⁵, as amended by Directive 96/87/EC⁶, lays down transitional provisions which remain valid until 1 January 1999, to allow the completion of some standardisation work by the European Committee for Standardisation (CEN) on receptacles and tanks; whereas that work has not yet been terminated; whereas the time-limits relating thereto should consequently be amended;
2. Whereas the time-limits under Article 6(4) regarding certain equipment should be postponed; whereas determining such equipment, and the date of application of Directive 96/49/EC, should be made subject to the procedure under Article 9 of that Directive;
3. Whereas the derogations provided for in Article 6(9), (11) and (14) of Directive 96/49/EC should be made subject to the procedure under Article 9 of that Directive;

¹ OJ C

² OJ C

³ OJ C

⁴ OJ C

⁵ OJ L 235, 17.9.1996, p. 25, and OJ L 294, 31.10.1998, p. 1.

⁶ OJ L 335, 24.12.1996, p. 45.

4. Whereas it is necessary to specify the conditions to be fulfilled before an exceptional transport operation may be regarded as an *ad hoc* transport operation;
5. Whereas Directive 96/49/EC should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Article 6 of Directive 96/49/EC is hereby amended as follows:

1. Paragraph 4 is amended as follows:

- (a) In the first sentence, "31 December 1998" is replaced by "30 June 2001", and, in the second sentence, "1 January 1999" is replaced by "1 July 2001".

- (b) The following subparagraphs are added:

"These dates shall be postponed for some transportable pressure equipment for which there are no detailed technical requirements or for which no sufficient references to the appropriate European standards have been added to the Annex.

The equipment concerned by this postponement and the date from which this Directive will be applicable to it shall be determined in accordance with the procedure provided for in Article 9."

2. Paragraph 9 is replaced by the following:

"9. If Member States intend to adopt provisions that are less strict than those laid down in the Annex for transport operations confined to their territory and relating only to small quantities of certain dangerous goods, with the exception of substances with average and high radioactivity, they shall notify the Commission thereof.

The Commission shall examine whether the conditions set out in the first paragraph are met and shall decide, in accordance with the procedure provided for in Article 9, whether the Member States concerned may adopt the said provisions."

3. Paragraph 10 is replaced by the following:

"10. The Member States may issue administrative authorisations, valid for their territory only, to carry out *ad hoc* transport operations of dangerous goods which are either prohibited by the Annex or are effected under conditions different from those provided for in that Annex, on condition that such *ad hoc* transport operations correspond to exceptional transport operations, clearly defined and limited in time."

4. In paragraph 11, the following subparagraph is added:

"The Commission shall examine whether the necessary conditions set out in the first subparagraph are met and shall decide, in accordance with the procedure laid down in Article 9, whether the Member States concerned may authorise the said transport operations."

5. In paragraph 14, the following subparagraph is added:

"The Commission shall examine whether the necessary conditions set out in the first subparagraph are met and shall decide, in accordance with the procedure laid down in Article 9, whether the Member States concerned may authorise the said transport operations."

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 30 June 2000 at the latest. They shall forthwith inform the Commission thereof.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the essential provisions of national law which they adopt in the field governed by this Directive.

Article 3

This Directive shall enter into force on the third day following that of its publication in *the Official Journal of the European Communities*.

Article 4

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President